

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed March 31, 2006. Claims 21 and 25 are cancelled, claim 13 is amended, and new claims 30-34 are added. Claims 13-20, 22-24, and 26-34 are now pending in view of the above amendments. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

II. Allowed Subject Matter

The Examiner has indicated that claims 21 and 25 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicants have rewritten independent claim 13 to include the limitations of

dependent claim 25. Accordingly, newly amended independent claim 13 is similar in scope to cancelled claim 25. In particular, the scope of newly amended claim 13 (i.e., the scope of cancelled claim 25) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten in an independent format. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from amended claim 13— namely, claims 14-20, 22-24, and 26-29 – are also in a condition for allowance.

In addition, Applicants note that in the Allowable Subject Matter section of the Office Action, the Examiner indicated that “there is not taught or disclosed in the prior art a method of producing a device including an optoelectronic structure and wafer through via as claimed, where an etched isolation moot is disposed about the optoelectronic structure and the via.” Accordingly, Applicants have included a new independent claim 30 that includes the etching limitation of cancelled claim 21 and the limitations of former base independent claim 13. Thus, new claim 30 is similar in scope to cancelled claim 21. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from claim 30— namely, claims 31-34 – are also in a condition for allowance.

III. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. §102(e)

The Office Action rejected claims 13-18, 20, 22, 24, and 26-29 under U.S.C. § 102(e) as being anticipated by Thornton et al. (U.S. 6,937,637). Due to the amendments discussed in section II of this response, this rejection has been overcome and should therefore be withdrawn.

B. Rejection Under 35 U.S.C. § 103

The Office Action rejected claims 19 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Thornton. Due to the amendments discussed in section II of this response, this rejection has been overcome and should therefore be withdrawn.


The Office Action also rejected claims 28-29 under 35 U.S.C. § 103(a) as being unpatentable over Thornton in view of Nishiguchi et al. (U.S.6,154,476). Due to the amendments discussed in section II of this response, this rejection has been overcome and should therefore be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe that they have addressed every issue raised in the Office Action and have put the claims in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 28th day of June, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric L. Maschoff".

ERIC L. MASCHOFF
Registration No. 36,596
SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800

ELM:SKJ
W:\15436\437.7.1\ML0000003554V001.doc